



Billing code 3410-02 P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Doc. No. AMS-FV-12-0052; FV12-905-2 PR]

**Oranges, Grapefruit, Tangerines, and Tangelos Grown in
Florida; Revising Reporting Requirements and New
Information Collection**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on a proposed change to reporting requirements prescribed under the Federal marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida (order). The Citrus Administrative Committee (Committee) is responsible for local administration of the order. This action would require all fresh citrus handlers to provide the Committee with a list of all growers whose fruit they handled each season. This information would enable the Committee to more efficiently administer the order and improve communication with growers. This proposal also announces the Agricultural Marketing Service's (AMS) intention to request approval from Office of Management and Budget (OMB) of a new information collection.

DATES: Comments on the proposed rulemaking must be received by [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or Internet:

<http://www.regulations.gov>. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at:

<http://www.regulations.gov>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 325-8793, or E-mail: Jennie.Varela@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Laurel.May@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 905, as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would revise the reporting requirements prescribed under the order. This action would require all fresh citrus handlers to provide the Committee with a list of all growers whose fruit they handled each season. This information would enable the Committee to

more efficiently administer the order and better communicate fresh market issues to fresh market citrus growers. This proposed change was unanimously recommended by the Committee at a July 17, 2012, meeting.

Section 905.71 of the order provides the Committee, with the approval of the Secretary, authority to collect information from handlers that is deemed necessary for administering the order. This proposed rule would utilize this authority to establish a new § 905.171 under the rules and regulations of the order. This new section would require handlers of fresh citrus to report to the Committee a list of names and contact information for all growers whose fruit they have shipped by June 15 of each season.

Currently, the Committee does not require handlers to report any information regarding the growers who supply them. In order to communicate with its grower base regarding the order or Committee actions, the Committee depends on mailing lists from other industry groups. However, third-party lists are often incomplete, out of date, or do not distinguish between those growing for the fresh market or those growing for the processed market.

Ninety percent of the volume of citrus produced in Florida is sold for processing into juice, which is not regulated under the order. Consequently, while there are an estimated 8,000 citrus growers, it is estimated only 750

growers produce for the fresh market. Because there is no readily available comprehensive list of fresh citrus growers, the Committee could allocate a great deal of resources into information distribution and still not be certain that the information is getting to those covered under the order.

Recently, the Committee began discussing potential changes to the order to make it more efficient and responsive to industry needs. In these discussions, the Committee recognized that grower involvement could be improved through focused communication with fresh market citrus growers. However, in order to actively reach out to growers in the industry, the Committee must have accurate information. The Committee discussed developing a list of growers compiled annually from information provided by handlers to make effective outreach possible. Some members expressed concerns about the disclosure of proprietary information. The Committee addressed these concerns by stating the scope of the information collection could be limited to only grower contact information.

In addition, while this action would assist the Committee in its efforts to keep growers informed and to solicit their input on potential changes to the order, it also could be used to increase grower outreach and involvement in Committee elections and membership,

facilitate grower participation in amendment and continuance referenda, and provide for a more efficient use of Committee resources.

As a result, Committee members recommended collecting grower names and contact information each season from handlers of fresh citrus so that the Committee would have an accurate and updated list to use in communicating with fresh market citrus growers. June 15 was selected as the due date for this information as it is toward the end of the season, and Committee members agreed handlers would have a complete list at that time.

This change would revise reporting requirements to require all fresh citrus handlers regulated under the order to provide the Committee with contact information for all growers whose fruit they have shipped. This information would be due by June 15 of each season. The change would enable the Committee to more efficiently administer the order and communicate fresh market issues to fresh market citrus growers.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 8,000 growers of citrus in the production area and approximately 45 handlers subject to regulation under the marketing order; however, it is estimated that only 750 growers produce for the fresh market. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$7,000,000 (13 CFR 121.201).

Based on production data, grower prices as reported by the National Agricultural Statistics Service, and the total number of Florida citrus growers, the average annual grower revenue is below \$750,000. In addition, based on industry and Committee data, the average annual f.o.b. price for fresh Florida citrus during the 2010-11 season was approximately \$12.16 per 4/5 bushel carton, and total fresh

shipments were approximately 30.4 million cartons. Using the average f.o.b. price and shipment data, about 55 percent of the Florida citrus handlers could be considered small businesses under SBA's definition. Thus, assuming a normal distribution, the majority of producers and handlers of Florida citrus may be classified as small entities.

This proposed rule would revise the reporting requirements prescribed under the order. This action would require all fresh citrus handlers to provide the Committee with a list of all growers whose fruit they handled by June 15 of each season. This information would enable the Committee to more efficiently administer the order and better communicate fresh market issues to fresh market citrus growers. This rule would create a new § 905.171, which would establish the new reporting requirement. The authority for this action is provided for in § 905.71 of the order. This proposed change was unanimously recommended by the Committee at a July 17, 2012, meeting.

Requiring grower contact information each season would impose a minor increase in the reporting burden on all citrus handlers. However, this data is already recorded and maintained by handlers as a part of their daily business. Handlers, regardless of size, should be able to

readily access this information. Consequently, any additional costs associated with this change would be minimal and apply equally to all handlers.

This action should also help growers receive more information about the activities under the order and make them more aware of their opportunities to participate in the efforts of the Committee. The benefits of this rule are expected to be equally available to all fresh citrus growers, regardless of their size.

The Committee discussed making no change as an alternative to this action but determined that in order to efficiently carry out the objectives of the marketing order, the information collection within this new report was necessary. Therefore, this alternative was rejected.

This proposal would establish one new reporting requirement and would require one new Committee form. Therefore, this proposed rule would impose a minor increase in the reporting burden for all handlers, which is discussed in the Paperwork Reduction Act section of this document.

As with all Federal Marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector

agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Further, the Committee's meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 17, 2012, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at:
www.ams.usda.gov/MarketingOrdersSmallBusinessGuide. Any questions about the compliance guide should be sent to

Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces AMS's intent to request approval from the Office of Management and Budget (OMB) for a new information collection under OMB No. 0581-NEW. It will be merged with the forms currently approved under OMB No. 0581-0189 "Generic Fruit Crops."

Title: Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Marketing Order No. 905

OMB Number: 0581-NEW

Type of Request: New Collection

Abstract: The information requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Florida citrus marketing order program.

On July 17, 2012, the Committee unanimously recommended that all fresh citrus handlers, covered under the order, provide the Committee with a list of all growers whose fruit they handled each season. This form, titled Handler Supplier Report, would be submitted directly to the Committee by handlers by June 15 of each year.

This information collection would benefit the facilitation of communication between the Committee and the growers. The information collected would only be used by authorized representatives of the USDA, including the AMS Fruit and Vegetable Program regional and headquarters staff, and authorized employees of the Committee. Authorized Committee employees would be the primary users of the information, and the AMS would be the secondary users. The Committee's staff would compile the information and utilize it to distribute regulatory information, to seek grower nominations for Committee positions, to keep fresh growers informed of issues affecting the fresh segment of the industry, and to prepare both the annual report and marketing policy, as required under the order. All proprietary information would be kept confidential in accordance with the Act and the order.

The proposed request for new information collection under the order is as follows:

Handler Supplier Report

Estimate of Burden: Public reporting burden for this collection of information is estimated to be an average of 0.33 hours per response.

Respondents: Handlers of fresh Florida citrus

Estimated Number of Respondents: 45

Estimated Number of Responses per Respondent: 1

Estimated Total Annual Burden on Respondents: 14.85

hours

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-NEW and the Marketing Order for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, and should be sent to the USDA in care of the Docket Clerk at the previously-mentioned address or at <http://www.regulations.gov>.

All responses to this notice will be summarized and included in the request for OMB approval. All comments received will become a matter of public record and will be available for public inspection during regular business hours at the address of the Docket Clerk or at <http://www.regulations.gov>.

If this proposed rule is finalized, this information collection will be merged with the forms currently approved under OMB No. 0581-0189 "Generic Fruit Crops."

Citrus, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 905 is proposed to be amended as follows:

PART 905 - ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS
GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 905.171 is added to read as follows:

§ 905.171 Handler Supplier Report

Each handler shall furnish a supplier report to the Committee on an annual basis. Such reports shall be made on forms provided by the Committee and shall include the name and business address of each grower whose fruit was shipped or acquired by the handler during the season. Handlers shall submit this report to the Committee not later than June 15 of each season.

Dated: February 27, 2013

Rex A. Barnes
Acting Administrator
Agricultural Marketing Service

[FR Doc. 2013-04964 Filed 03/04/2013 at 8:45 am; Publication Date: 03/05/2013]